



JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas and Mining

JOHN R. BAZA  
*Division Director*

M/047/0090

0011

December 22, 2009

Certified Return Receipt  
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Mr. Rob Dubuc  
Western Resource Advocates  
150 South 600 East, Suite 2AB  
Salt Lake City, Utah 84102

Mr. Barclay Cuthbert  
Earth Energy Resources  
6<sup>th</sup> Avenue SW Suite # 740 404  
Calgary, Alberta T2P 0R9

Subject: Informal Conference for PR Springs Mine M/047/0090

Gentlemen:

On November 23, 2009, the Division of Oil, Gas, and Mining ("the Division") held an informal conference regarding the Division's approval of the Notice of Intention to Commence Large Mining Operations ("NOI") for the referenced mine. Western Resource Advocates on behalf of itself and Utah Chapter of the Sierra Club, and Southern Utah Wilderness Alliance ("the Petitioners") requested the informal conference by letter dated September 9, 2009, addressed to Ms. Dana Dean, Associate Director of Mining for the Division. As the hearing officer for the November 23, 2009 informal conference, I am providing this letter to the parties in order to communicate my decision from the conference.

The informal conference proceeded as follows:

1. The conference commenced at approximately 1:15 p.m. Mr. John Baza, Director of the Division acted as hearing officer. Mr. Baza introduced the parties, described the type of conference being held, and presented the procedure for the conference.
2. Mr. Steven Alder, as attorney for the Division introduced the application and described the appeal. Mr. Paul Baker, Minerals Program Manager for the Division, provided an overview and history of the NOI on behalf of the Division.



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3. Mr. Rob Dubuc and Ms. Joro Walker representing the Petitioners stated their concerns and objections to the Division's issuance of the mining permit.
4. Mr. John Davis of Holme, Roberts & Owen, LLP, counsel for the mining applicant Earth Energy Resources, responded. Ms. Karla Knoop and Ms. Linda Matthews of JBR Environmental Consultants appeared as witnesses for Earth Energy Resources and discussed storm water and air quality permitting through the Department of Environmental Quality.
5. Mr. Alder responded for the Division and Ms. Leslie Heppler and Mr. Tom Munson, Environmental Scientists for the Division, discussed storm water protection, drainage, mine plan requirements and other technical information related to subsidence and compaction and hydrological evaluation.
6. Mr. Dubuc provided rebuttal and closing statements.
7. Following concluding questions and remarks, Mr. Baza adjourned the informal conference at approximately 3:15 p.m.

Based on the information and arguments presented at the informal conference, I have concluded as follows:

1. There is no regulatory or statutory basis for the Petitioner's verbal argument that the Minerals Regulatory Program of the Division should be applying standards of review for the NOI based on the Coal Regulatory Program of the Division that derives authority from the U.S. Surface Mining Control and Reclamation Act ("SMCRA").
2. The Division has correctly reviewed the NOI to assure compliance with the Mined land Reclamation Act and regulations as required to proceed with mining operations. Specifically, the Division has correctly determined that the NOI:
  - a. Provides for adequate drainage control to prevent damage from drainage by preventing any discharge of waters from the site;
  - b. Includes a storm water protection plan that provides for monitoring, control, and actions to protect the surrounding area from storm runoff from water rock dumps during mining and reclamation;
  - c. Contains adequately designed site compaction to prevent settling that would adversely affect the post mining land use or successful reclamation;
  - d. Includes a plan for reclamation and re-vegetation that will return the site to the approximate contours and will re-vegetate the site; and
  - e. Is subject to the Earth Energy Resources full compliance with air and water permitting requirements for the operations prior to commencement of mining operations.
3. The NOI for the PR Springs Mine meets all other challenges or deficiencies as presented by Western Resource Advocates in their written and verbal comments.

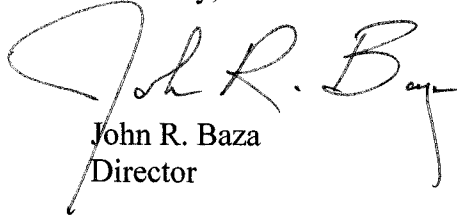
Therefore, it is my decision to uphold the Division's approval of the NOI.

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Rob Dubuc  
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PR Spring  
December 22, 2009

Any party has the right to appeal this decision to the Board of Oil, Gas, and Mining as a formal adjudicative proceeding in accordance with Rule R647-5-106.17 and Rules R641-100 et seq., by filing an appeal with the Board Secretary, Ms. Julie Ann Carter within ten (10) days of receipt of this letter.

You are advised to contact Ms. Julie Ann Carter at the Division's address and telephone number if you have questions regarding the procedures for filing an appeal to this decision.

Sincerely,



John R. Baza  
Director

JRB/vs

cc: John Davis  
Steve Alder  
Dana Dean  
Paul Baker

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